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REMARKS

Claims 1-8, 10-35 and 37-87 are pending in this application. In the current Office Action, the Examiner has rejected claims 1-4, 6-8, 10, 37-38, 52, 72 and 83 under various grounds of 35 U.S.C. §§ 102, 103 and 112. The rejections are respectfully traversed. The Examiner has indicated that claims 37-69 are allowed (some if the Section 112 rejections are overcome) and has indicated that claims 4-5, 7, 11-35 and 72-87 are allowable if rewritten into independent form and/or a Section 112 rejection is overcome.

In this paper, Applicants have amended the specification at paragraph [0092] as well as amended claims 10, 28, 32, 37-38, 52, and 70-72 to more particularly and distinctly claim the subject matter that Applicants believe to be their invention and not for the purpose of avoiding prior art. No new matter has been added by the foregoing amendment, full support therefor being shown in the drawings and specification as filed. The claims remaining in the application are believed by the Applicant to be allowable.

Claims 1-8, 10-35, and 37-87, as amended where noted, remain in the application. Further examination and reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Objections to Drawings - 37 CFR 1.83(a)

The Examiner has objected to the drawings as filed as not allegedly showing every feature of the invention specified in the claims. Specifically, the Examiner has asserted that the "the 'nail plate' must be shown or the feature(s) canceled from the claim(s)." This objection is respectively traversed.

A "nail plate" is a term of art in the lumber and lumber connector industry which refers to a plate having several teeth extending therefrom which can be hammered or press-fit into a piece of lumber board. The "nail plate" is clearly shown in detail in the drawings for this case in at least FIGS. 2-7 and 31-36 by teeth 66 (the series of teeth 66 on the hinge plate portions and the term "nail plate" can be used interchangeably):

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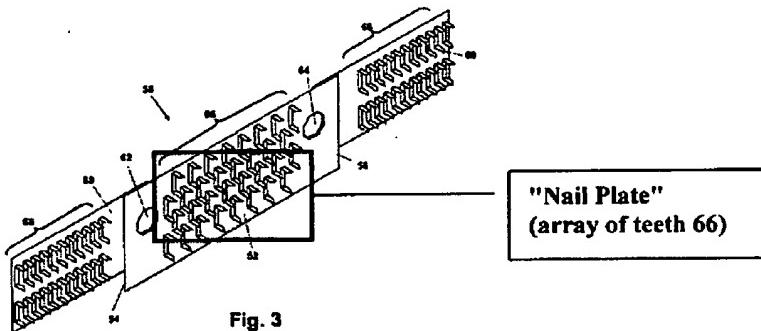


Fig. 3

In addition, the nail plate on the connector members of the hinge plate claimed in the invention is shown in use in at least FIGS. 8-23 and 37-67 (the patterned surface on the hinge plates shown in the drawings).

Thus, Applicant sees no need for corrected drawing sheets to be filed in compliance with 37 CFR 1.121(d) and, in addition, the Examiner's objection to the drawings should be withdrawn.

Claim Objections

The Examiner has objected to claims 28 and 32 because they depend from canceled claim 9. The Applicant thanks the Examiner for recognizing this informality. The Applicant has corrected the dependency of each of these claims to depend from claim 10. It is believed that these claims are now in condition for allowance.

The Examiner has also objected to the phrase "the first connector member" in claim 71, at line 3, and has indicated that this phrase should be rewritten as "the first truss member". The Applicant thanks the Examiner for recognizing this informality and has made an appropriate correcting amendment to claim 71. It is believed that claim 71 is now in condition for allowance.

Claim Rejections - 35 USC § 112

Claims 2-4, 6-7 and 72 stand rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner was unclear about which element applicant is referring to as the "nail plate". As described above, the term "nail plate" is a commonly-used term of art in

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the lumber industry to describe a series of teeth extending from a plate. The teeth are typically hammered or press-fit into a wood member to attach to the wood member and/or to connect more than one wood member together. The nail plate is described and shown in the specification by, e.g., reference numeral 66 which describe the series of teeth on the connector members of the hinge plate shown in this application. Further, Applicant has made a clarifying amendment to the specification in paragraph [0092] herein specifically calling out this common name. Thus, it is believed that the Examiner's rejection has been overcome and that claims 2-4, 6-7 and 72 are in condition for allowance.

The Examiner has also made several Section 112 rejections based upon the Applicant's use of the term "connector member" in claims 37-38, 52, 71-72 and 82-83 as specifically not allegedly being clear as to whether the "connector member" was the "first connector member" or the "second connector member" as well as lacking antecedent basis. Each of these rejections is respectfully traversed. Applicant has made appropriate correcting amendments to the claims and it is believed that the Examiner's rejection has been overcome.

Claim Rejections - 35 USC § 102

Claims 1-3, 6, 8 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,094,059 to Ganescu ("Ganescu '059"). This rejection is respectfully traversed.

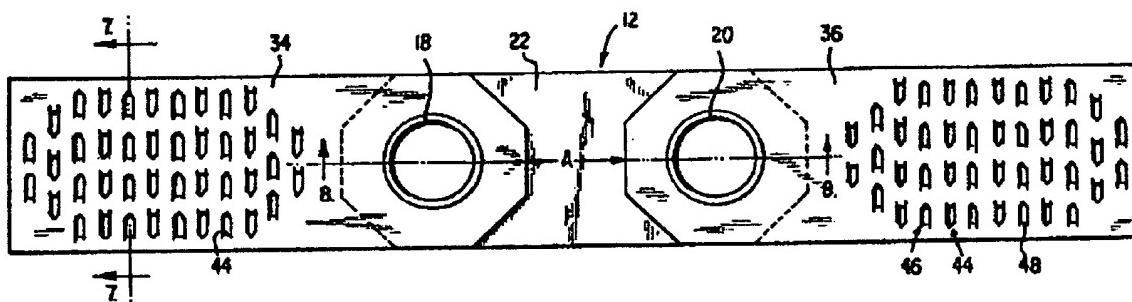
Claim 1 calls for a hinge plate for integrally and pivotally connecting a first truss member to a second truss member comprising: a first connector comprising a planar member having at least one mounting portion thereon, the first connector having a hinge portion thereon; a second connector comprising a planar member having at least one mounting portion thereon, the second connector having a hinge portion thereon; an intermediate member comprising a planar member having at least one mounting portion thereon, the intermediate member having a hinge portion at a first end thereof and a hinge portion at a second end thereof opposite to the first end, wherein the hinge portion on the first connector is pivotally mounted to the hinge portion on the first end of the intermediate member and the hinge portion on the second connector is pivotally mounted to the hinge portion on the second end of the intermediate

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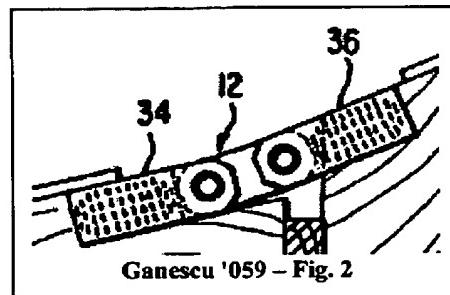
member; whereby a multifunctional pivotal mounting between truss members can be made by fastening the first connector to a first truss member and fastening the second connector to a second truss member.

Ganescu discloses a double hinge 12 including a central plate 22 having plates 34 and 36 pivoted to it at pivots 18 and 20, respectively. Plates 34 and 36 rotate about pivots 18 and 20. Plate 34 is aligned with and overlaps one end of plate 22 and plate 36 is aligned with and overlaps the opposite end of plate 12. Edges of the holes in plate 12 are crimped to hold plates 34 and 36 through the holes therein, forming pivots 18 and 20. Teeth 44 are struck from end portions of plates 34 and 36 opposite from the ends which pivot about ends of plate 22.



Ganescu '059 – Fig. 6

Claim 1 calls for "an intermediate member comprising a planar member having at least one mounting portion thereon." Of importance, the central plate 22 described in the Ganescu '059 reference is completely devoid of a "mounting portion" thereon that is suitable for attachment to an adjacent structural member, such as a wood truss member. In fact, an examination of the Ganescu '059 reference shows that there is no need for a mounting portion of any kind on the central plate 22 because the central plate is made to span a gap between a pair of truss members such as that shown in FIG. 2 of Ganescu '059. Thus, claim 1 is allowable over the Examiner's rejection based upon the Ganescu '059 reference.



Ganescu '059 – Fig. 2

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Claim 4, which modifies the mounting portion on the intermediate member to comprise a nail plate is already indicated as allowable by the Examiner. Since the Ganescu '059 reference fails to disclose any sort of a mounting portion on the uninterrupted planar surface of the central plate 22, claim 1 must certainly define over this reference as well by providing a "mounting portion" on the intermediate member. Claims 2-3 and 6-8 are allowable over the Ganescu '059 reference for at least the same reasons as claim 1. Therefore, claims 1-3 and 6-8 are in condition for allowance.

Claims 10 and 70-71 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,423,898 to Tracy et al. ("Tracy '898"). This rejection is respectfully traversed.

First, this is a new ground of rejection and the Examiner should withdraw the finality of his action. *See MPEP 706.07(a)* ("Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection..."). This new ground of rejection was introduced on the Examiner's own initiative and the Examiner has not made a case that the Applicant prompted this new ground of rejection by an amendment to the claims or by filing an information disclosure statement. *Id.* Thus, the finality of the Examiner's action should be withdrawn.

Second, the Tracy '898 reference is non-analogous prior art. The Applicant's invention relates to a double hinge plate which is used to reversely-pivot a first truss member with respect to a second truss member so that a pre-assembled truss can be placed in a collapsed state, transported to an installation location, and erected into place there. The Tracy '898 patent relates to roof structures that are built on-site at the location and to a ridge plate 19 which is attached to a ridge beam 14 of a roof at spaced locations. The ridge plate 19 allows rafters 18 to be mounted to the ridge beam without precise mitering of the ends of the rafters 18 to abut the ridge beam 14.

Third, even if the Tracy '898 reference can be properly cited against claims 10 and 70-71, the Tracy '898 reference fails to anticipate the claimed invention.

With respect to claim 10, claim 10 calls for a connector subassembly for integrally and pivotally connecting a first truss member to a second truss member comprising: a connector

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block having a first end and a second end opposite from the first end; a first connector member extending from the first end of the connector block and pivotally attached thereto, wherein the first connector member is adapted to be fastened to a first truss member; a second connector member extending from the second end of the connector block and pivotally attached thereto, wherein the second connector member is adapted to be fastened to a second truss member; wherein the first connector member and the second connector member are interconnected by an intermediate member; wherein when the first connector is fastened to the first truss member and when the second connector is fastened to the second truss member, the first truss member can be folded reversely atop the second truss member by pivoting the first and second truss members about the respective pivotal mountings on the connector block and the connector block provides spacing for such folding to occur.

Claim 70 calls for a truss comprising: an array of interconnected truss members comprising at least a first truss member and a second truss member; a connector block having a first end and a second end opposite from the first end; an intermediate member mounted to the connector block; a first connector member mounted to the first truss member and pivotally mounted to the intermediate member; a second connector member mounted to the second truss member and pivotally mounted to the intermediate member; wherein the first truss member can be folded reversely atop the second truss member by pivoting the first and second truss members about the respective pivotal mountings to the intermediate member and the connector block provides spacing for such folding to occur.

Claim 71 calls for the truss of claim 70 wherein the first truss member has an inner vertical surface and the connector member block has an outer vertical surface, and wherein the inner vertical surface of the first connector truss member and the outer vertical surface of the connector member block come into abutment when the first truss member is moved to a fully unfolded position with respect to the connector block.

The double ridge plate 19 of the Tracy '898, in addition to having a completely different stated function than Applicant's invention (that is, assisting in fixed attachment of roof rafters to a ridge beam as opposed to allowing a pre-assembled truss to be collapsed for transportation) ,

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does not anticipate the Applicant's invention. The ridge plate 19 has a first bracket 31 provided with rounded slots 32 which is connected to a second bracket 28 by a bend line 25. The second bracket 28 has a series of round openings 29 therein. The second bracket 28, in turn, is connected to a central fastening portion 20 by another bend line 23. Another first bracket 31 and second bracket 29 are fastened to the opposite side of the central fastening portion 20.

In use of the Tracy '898 ridge plate 19, an end of a rafter 18 is placed within the first bracket 31. The second bracket 28 overlies the first bracket 31 so that at least one slot 32 in the first bracket 31 is aligned with at least one round opening 29 in the second bracket 28. Then, fasteners (such as nails or screws) are passed through the aligned openings 29 and slots 32 to mount the first bracket 31 to the second bracket 32 and thereby to the rafter 18. Once a rafter 18 is mounted to the first and second brackets 31, 28 by a fastener passed through the aligned openings 29 and slots 32, the first bracket 31 does not pivot with respect to the second bracket 28. In this manner, the Tracy '898 plate does not require the rafters 18 to be precisely mitered due to differing angular configurations of a roof and the particular location of a ridge beam 14.

Therefore, while there is a bend line 25 between the first bracket 31 and the second bracket 28, there can be no pivotal movement of the first bracket 31 with respect to the second bracket 28 once the rafter 18 is mounted via a fastener passed through the aligned slots 32 and openings 29. Thus, since claims 10, 70 and 71 all call for each of the first and second connectors to be pivotally attached to the connector block and either adapted to be or fixedly mounted to a corresponding first or second truss member, then Tracy '898 cannot anticipate claims 10 and 70-71. Furthermore, claims 10 and 70-71 contemplate that the truss members are foldable with respect to the connector block when mounted thereto, and this cannot happen with the Tracy '898 reference.

Claims 10 and 70-71 are not anticipated by Tracy '898 and are, therefore, in condition for allowance. The Applicant respectfully requests that the Examiner re-indicate the allowability of these claims.

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Conclusion

For the reasons discussed above, all claims remaining in this application are in condition for immediate allowance. It is submitted that all of the pending claims in the application are allowable over the prior art of record. Early notification of allowability is requested.

In addition, should the Examiner not allow all claims remaining in this case, Applicant restates that the current Office Action should not have been made final due to the new grounds of rejection offered by the Examiner. The finality of this Office Action should be withdrawn. In any event, the courtesy of an Advisory Action is also respectfully requested should the Examiner persist with the finality of this Office Action.

If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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